



The Bombay Home Guard Act, 1947

Act 3 of 1947

Keyword(s):

Chief Commissioner, Commandant, Commandant General, Home Guard

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The Bombay Home Guards Act, 1947

(Bombay Act NO. III OF 1947) As
Extended To The Union Territory Of Delhi
Bombay Act NO. III Of 1947

(THE BOMBAY HOME GUARDS ACT, 1947)
An Act to provide for the constitution of Home Guards

Whereas it is expedient to provide a volunteer organization for use in emergencies and for the purposes in the State of Bombay. It is hereby enacted as follows :-

1. Short title, extent and commencement -

- (1) This Act may be called the Bombay Home Guards Act, 1947.
- (2) It extends to the whole of the Union Territory of Delhi.
- (3) It shall come into force at once.

2. Constitution of Home Guards and appointment of Commandant General and Commandant -

- (1) The Chief Commissioner of Delhi shall constitute for the Union Territory of Delhi a volunteer body called the Home Guards, the members of which shall discharge such functions and duties in relation to the protection of persons the security of property and the public safety as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder.

Provided that the Chief Commissioner of Delhi may, by notification in the Official Gazette, divide the Union Territory of Delhi into two or more areas and constitute such a volunteer body for each such area.

(1-A) Omitted.

- (2) The Chief Commissioner of Delhi may appoint a Commandant of each of the Home Guards constituted under sub-section (1).
- (3) The Chief Commissioner of Delhi shall appoint a Commandant General of the Home Guards in whom shall vest the general supervision and control of the Home Guards throughout the Union Territory of Delhi and until a Commandant is appointed under sub-section (2), the Commandant General may also exercise the powers and perform the functions assigned to the Commandant by or under this Act.

3. Appointment of members -

- (1) Subject to the approval of the Commandant General, the Commandant may appoint as members of the Home Guards such number of persons, who are fit and

willing to serve, as may from time to time be determined by the Chief Commissioner of Delhi, and may appoint any such member to any office of command in the Home Guards.

(2) Notwithstanding anything contained in sub-section (1) the Commandant General may, subject to the approval of the Chief Commissioner of Delhi, appoint any such member to any post under his immediate control.

(3) Omitted.

4. Functions and duties of members -

(1) The Commandant may at any time call out a member of the Home Guards for training or to discharge any of the functions or duties assigned to the Home Guards in accordance with the provision of this Act and the rules made thereunder.

(2) The Commandant General may in an emergency call out a member of the Home Guards for training or to discharge any of the said functions or duties in any part of the Union Territory of Delhi.

5. Powers, protection and control -

(1) A member of the Home Guards when called out under section 4 shall have the same powers and protection as an officer of police appointed under any Act for the time being in force.

(2) No prosecution shall be instituted against a member of the Home Guards in respect of any thing done or purporting to be done by him in the discharge of his functions or duties as such member except with the previous sanction of the District Magistrate.

6. Control by officers of police force -

The members of the Home Guards when called out under section 4 in aid of the police force shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed by rules made under section 8.

(6-A). Certificate, arms, etc. to be delivered up by person ceasing to be member-

(1) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver up to the Commandant or to such person and at such place as the Commandant may direct, his certificate of appointment or of office and the arms, accoutrements, clothing and other necessities which have been furnished to him as such member.

(2) Any Magistrate, and for special reasons which shall be recorded in writing at the time, any police officer not below the rank of Assistant or Deputy Superintendent of Police may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessities not delivered up. Every warrant so issued shall be executed in accordance with the provision of the Code of

Criminal Procedure, 1898 (V of 1898), by a police officer or if the Magistrate or the police officer issuing the warrants so directs by any other person.

(3) Nothing in this section shall be deemed to apply to any article which under the orders of the Commandant General has become the property of the persons to whom the same was furnished.

(6-B). Punishment of members of neglect of duty, etc. -

(1) The Commandant shall have the authority to suspend, reduce or dismiss or fine, to an amount not exceeding fifty rupees, any member of the Home Guards, under his control, if such member, without reasonable cause, on being called out under section 4 neglects or refuses to obey such order or to discharge his functions and duties as a member of Home Guards or to obey such any lawful order or direction given to him for the performance of his functions and duties or is guilty of any breach of discipline or misconduct. The Commandant shall also have the authority to dismiss any member of the Home Guards on the ground of conduct which has led to his conviction on a criminal charge. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(1-A) Notwithstanding any thing contained in this Act, the Commandant shall have the authority to discharge any member of the Home Guards at any time subject to such conditions as may be prescribed, if, in the opinion of the Commandant, the services of such member are no longer required. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(2) When the Commandant General or the Commandant passes an order for suspending, reducing, dismissing or fining any member of the Home Guards under sub-section (1), he shall record such order or cause the same to be recorded, together with the reasons therefore and a note of the inquiry made in writing and no such order shall be passed by the Commandant General or the Commandant unless the person concerned is given an opportunity to be heard in his defence.

(3) Any member of the Home Guards aggrieved by an order of the Commandant may appeal against such order to the Commandant General and any such member aggrieved by an order of the Commandant General may appeal against such order to the Chief Commissioner of Delhi, within thirty days of the date on which he was served with notice of such order. The Commandant General or the Chief Commissioner of Delhi as the case may be, may pass such order as he thinks fit.

(4) The Commandant General or the Chief Commissioner of Delhi may at any time call for and examine the record of any order passed by the Commandant or Commandant General, respectively, under sub-section (1) or (1A) for the purpose of satisfying himself as to the legality or propriety of such order passed by the Commandant or the Commandant General as the case may be, and may pass such order with reference there to as he thinks fit.

(5) Every order if no appeal is made there from as herein before provided and every order passed in appeal or revision under this section shall be final.

(6) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure, 1898 (V of 1898) for the recovery of fines imposed by a Court as if such fines were imposed by a Court.

(7) Any punishment inflicted on a member of the Home Guards under this section shall be in addition to the penalty to which such member is liable under section 7 or any other law for the time being in force.

Explanations - Where the Commandant General while exercising the powers of the Commandant passes any order under sub-section (1) or (1A) -

(i) the appeal from such order shall lie to the Chief Commissioner of Delhi;

(ii) for the purposes of sub-section (4), the power of revision in respect of such order shall vest in the Chief Commissioner of Delhi.

7. Penalty -

(1) If any member of the Home Guards, on being called out under section 4, without reasonable excuse, neglects or refuses to obey such order, or to discharge his functions as a member of the Home Guards, or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

(1-A) If any member of the Home Guard willfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provisions of sub-section (1) of section 6A, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

(2) No proceeding shall be instituted under sub-section (1) or (1A) without the previous sanction of the Commandant.

(3) A police officer may arrest without warrant any person who commits an offence punishable under sub-section (1) of (1A).

8. The Chief Commissioner of Delhi may make rules consistent with this Act -

(a) providing for the exercise by any officers of the Home Guards of the powers conferred by section 4 of the Commandant and the Commandant General;

(b) providing for the exercise of control by officers of the police force over members of the Home Guards when acting in aid of the police force;

(c) regarding the organization, appointment, conditions of service, functions, discipline, arms, accoutrements and clothing of members of the Home Guards and the manner in which they may be called out for service;

- (d) regulating the exercise by members of the Home Guards of any of the powers exercisable under section 5 of this Act;
- (e) generally for giving effect to the provision of this Act.

9. Members of Home Guards to be public servants -

Members of the Home Guards acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

9-A. Home Guards not disqualified from contesting elections to the State Legislature or local bodies-

(1) Omitted.

(2) Notwithstanding anything contained in the contrary in any other law for the time being in force a member of the Home Guards shall not be disqualified for being chosen as, and for being, a member of any local authority merely by reason of the fact that he is a member of the Home Guards.

10. Omitted.

DELHI ADMINISTRATION : DELHI NOTIFICATION

**Dated the 20th July, 1959.
29th Asadh, 1881(S)**

No. F.4/59-C.D.-In exercise of the powers conferred by section 8 of the Bombay Home Guards Act 1947, as extended to the Union territory of Delhi, the Chief Commissioner of Delhi is pleased to make the following rules namely-

1. Short Title - These rules may be called the Delhi Home Guards Rules, 1959.

2. Definition - In these rules unless the context otherwise requires-

- (1) "Act" means the Bombay Home Guards Act of 1947 as extended to the Union Territory of Delhi.
- (2) "Chief Commissioner" means the Chief Commissioner of Delhi.
- (3) "Commandant " means a Commandant of Home Guards appointed under section 2.
- (4) "Commandant General" means the Commandant General appointed under section 2.
- (5) "Form" means form appended to these rules.
- (6) "Home Guards" means the Home Guards constituted under section 2.
- (7) "Member of Home Guards" means a member appointed under section 3.
- (8) " Section" means a section of the Act.

3. Appointment of member of Home Guards - No person shall be appointed as a member of the Home Guards unless-

- (a) he has attained the age of 20 years.
- (b) has not completed the age of 60 years.
- (c) he has passed at least the fourth primary examination, and
- (d) he has been medically examined in accordance with the directions of the Commandant General and is in the opinion of the Commandant physically fit.

Provided that the Commandant General or the Commandant may relax the conditions regarding the age or educational qualification, prescribed in clause (a), (b) and (c) above in suitable cases.

4. Application for appointment - A person desiring to be appointed as member of the Home Guards shall make an application in form 'A'.

5. Home Guards Advisory Committee-

(1) The Chief Commissioner may appoint a committee to be called the Home Guards Advisory Committee for the areas for which the Home Guards have been constituted under section 2.

(2) The Home Guards Advisory Committee shall consist of such members as may be nominated by the Chief Commissioner.

(3) It shall be the duty of the Home Guards Advisory Committee to review the working of the Home Guards Organization from time to time and to suggest measures regarding the improvement of the Organization.

6. Pledge - Every person before his appointment as a member shall sign a pledge in form 'B' before the Commandant General or an Officer authorized by him for this purpose.

7. Certificate - Every person appointed as member of the Home Guards shall receive a certificate of appointment in form 'C'.

8. Term of Office - The term of office of a member of the Home Guards shall be three years.

Provided that the appointment of any such member may, at any time be terminated by the Commandant General or the Commandant, as the case may be, before the expiry of the term of office -

- (a) by giving one month's notice, or
- (b) without such notice, if such member is found to be medically unfit to continue as a member of Home Guards.

9. Limit of age for a member of the Home Guards - A member of the Home Guards may continue to be such member until he attains the age of sixty years.

Provided that the Commandant General or the Commandant any relax the age limit in suitable cases.

10. Conditions subject to which power of discharge may be exercised - No member of the Home Guards shall be discharged under sub-section (1-A) of section (6-B) unless the Commandant or the Commandant General, as the case may be, is satisfied that such member has committed an act detrimental to the good order, welfare or discipline of the Home Guards Organization.

11. Resignation - A member of the Home Guards may resign his office by an application in writing addressed to the Commandant General.

Provided that such resignation shall not be take effect unless the Commandant General accepts the same after being satisfied that there are good and sufficient reasons for the same.

12. Organization - In addition to the Commandant General, the Home Guards shall consist of a Commandant and such officers and other ranks as may be considered necessary, by the Commandant General.

13. Powers of the Commandant General and Commandant -

(1) The Commandant General shall exercise general supervision and control over the working of the Home Guards. He shall be directly responsible to the Chief Commissioner of the efficient working, discipline administration, and training of the Organization.

(2) Subject to the supervision and control of the Commandant General, the Commandant shall exercise supervision and control over the working of the Home Guards under his Command.

(3) Subject to the supervision and control of the Commandant General and the Commandant any officer of the Home Guards authorized by the Commandant General in this behalf may exercise the powers conferred by section 4 in such circumstances as the Commandant General may specify.

14. Discipline -

(1) A member of the Home Guards shall obey every order of his superior officer.

(2) For the purpose of administration and discipline the members of the Home Guards shall be under the control of their own officers;

Provided that if a contingent of Home Guards is acting in conjunction with the ordinary police force, in the maintenance of law and order the senior officer of such contingent present shall be under the immediate control and subject to the discretions of the senior officer of such police force present not below the rank of an Inspector.

15. Uniform, accoutrements, etc. - A members of the Home Guards shall while on duty wear the uniform supplied to him. He may also carry rifle or a revolver or any other weapon, sanctioned by the Chief Commissioner from time to time.

16. Training - The members of the Home Guards shall undergo such course of training and at such places as may be determined and fixed by the Commandant General from time to time.

17. Functions and duties -

(1) The functions and duties of members of the Home Guards shall be such as may be assigned by the Chief Commissioner or the Commandant General from time to time.

(2) A member of the Home Guards constituted for any area shall be liable to serve in any other area in which the Act is in force.

18. Compensation - If a member of the Home Guards suffers any damage to his person or property while under training or on duty, he shall be paid such compensation as may be determined by the Chief Commissioner; provided that such damage is not caused by his own negligence or willful act omission in contravention of any of the provisions of the Act or rules made there under or orders or directions issued by his superior officers.